

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/LFG

RIO CHAMA STREAM SYSTEM
Section 3, Canjilon Creek

**SCHEDULING AND PROCEDURAL ORDER FOR DETERMINATION OF PRIORITY
DATES AND IRRIGATION WATER REQUIREMENTS IN THE CANJILON
SUBSECTION OF SECTION 3 OF THE RIO CHAMA STREAM SYSTEM**

THIS MATTER comes before the Court on the State of New Mexico's Motion for Approval of Proposed Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Canjilon Subsection of Section 3 of the Rio Chama Stream System. [Doc. 11014]. No responses opposing the motion have been filed. The Court will GRANT the motion. This Order is entered by the Court pursuant to Fed. R. Civ. P. 16(b) to guide the course of the determination of priority dates and irrigation water requirements in the Canjilon Subsection of Section 3 of the Rio Chama Stream System.

I. DETERMINATION OF PRIORITY DATES.

A. Under the July 25, 2000, *Procedural Order for the Adjudication of Water Rights Claims in the Rio Nutrias, Rio Cebolla and Canjilon Creek Sections of the Rio Chama Stream System* [Doc. 5913], as amended August 7, 2001 [Doc. 6321], and August 28, 2002 [Doc. 6832], the adjudication of priority dates and irrigation water requirements will be initiated by the State following the completion of individual subfile activity. The only remaining elements to

adjudicate in the Canjilon Subsection for surface water irrigation use are priority dates and irrigation water requirements.

B. The State of New Mexico proposes the determination of the following ditch-wide priority dates for irrigated lands located in the Canjilon Subsection as described below:

DITCH	PRIORITY DATE
Spring No. 3 Ditch	1906
Spring No. 4 Ditch	1906
Spring No. 5 Ditch	1906
Martinez Unnamed Ditch	1906
Unknown Ditch	1919
Ortiz Ditch No. 1	1899
Ortiz Ditch No. 2	1899
Ortiz Ditch No. 3	1899
Ortiz Ditch No. 4	1895
Ortiz Ditch No. 5	1895
Bordo Ditch	1888
Casias Ditch	1886
El Llano Ditch	1874
Brazito Ditch	1888
Otra Vanda Ditch	1874
Valdez Ditch	1884
Rivera Ditch No. 1	1884
Rivera Ditch No. 2	1884
Acequia El Pinabetal	1884
Acequia Del Orilla	1871
Garcia Ditch No. 1	1871
Garcia Ditch No. 2	1892
Montoya Creek Ditch	1871
Salazar Ditch	1871

Leyba Ditch	1882
A.E. Garcia Ditch	1900
Rumaldita Martinez/A.A. Garcia Ditch	1882

C. The adjudication of water right priorities in the Canjilon Subsection shall be completed in a show cause proceeding modeled on the process used in the determination of priority dates in Section 5 (Rio Gallina). *See Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Rio Gallina Section of the Rio Chama Stream System* filed August 8, 2008 [Doc. 8752].

The form of notice will inform the defendants that the Court has entered an *Order and Notice to Show Cause* that requires them to file an objection with the Court if they disagree with either: (1) the priority date proposed by the State for their own irrigation water rights, or (2) the priority dates proposed by the State for any other irrigation water rights in the Canjilon Subsection. The *Notice* and *Order to Show Cause* will be served by mail on all individual subfile defendants in the Canjilon Subsection, including the United States and the Commissioners of each community ditch in the Canjilon Subsection that is a party to these proceedings. In the absence of an objection to the priority dates proposed by the State, the Court will enter a final order with respect to priority dates of all irrigation water rights in the Canjilon Subsection. This determination of priority dates shall be subject to the right of water rights claimants in other Sections, or in other Subsections of Section 3, to object prior to the entry of a final decree. The defendants in the Canjilon Subsection will be informed that they will have no other opportunity to protest priority date determinations of the irrigation water rights in the Canjilon Subsection, and that subsequent *inter se* proceedings in the Canjilon Subsection will not include the opportunity to object to those determinations.

In cases where defendants in the Canjilon Subsection have previously agreed with the State on the priority for their water rights, and those priority dates have been incorporated into subfile orders entered by the Court, those priority dates cannot be challenged by those defendants. Other persons with standing may file objections.

The State shall publish the Court's *Notice and Order to Show Cause* to inform defendants and all persons having water rights of any type in the Canjilon Subsection of their right to participate and offer evidence in support of objections to the proposed determination of priority dates for irrigation water rights in the Canjilon Subsection. The approved Notice shall be published once a week for four consecutive weeks in the *Rio Grande Sun*.

II. DETERMINATION OF IRRIGATION WATER REQUIREMENTS.

A. The State proposes the determination of the following irrigation water requirements for lands located in the Canjilon Subsection as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.16 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.90 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.83 acre-feet per acre per annum.

The irrigation water requirements in the Canjilon Subsection described above do not include diversion requirements associated with stockponds or other impoundments having valid water rights, which will be determined at a later date in these proceedings.

B. The adjudication of irrigation water requirements in the Canjilon Subsection shall be completed in a show cause proceeding using the procedures described above in connection with the determination of priority dates for water rights in the Canjilon Subsection. The form of notice will inform the defendants that the Court has entered a *Notice and Order to Show Cause*

that requires them to file an objection with the Court if they disagree with the irrigation water requirements proposed by the State for use in the Canjilon Subsection. The *Notice and Order to Show Cause* will be served by mail on all individual subfile defendants in the Canjilon Subsection, including the United States and the Commissioners of each community ditch in the Canjilon Subsection that is a party to these proceedings. In the absence of an objection to the irrigation water requirements proposed by the State, the Court will enter a final order with respect to irrigation water requirements in the Canjilon Subsection. This determination of irrigation water requirements shall be subject to the right of water rights claimants in other Sections, or in other Subsections of Section 3, to object prior to the entry of a final decree. The defendants will be informed that they will have no other opportunity to protest the determination of irrigation water requirements in the Canjilon Subsection, and that subsequent *inter se* proceedings in the Canjilon Subsection will not include the opportunity to object to this determination.

In cases where defendants in the Canjilon Subsection have previously agreed with the State on the irrigation water requirements for their water rights, and those amounts have been incorporated into subfile orders entered by the Court, those amounts cannot be challenged by those defendants. Other persons with standing may file objections.

The State shall publish the Court's *Notice and Order to show Cause* to inform defendants and all persons having water rights of any type in the Canjilon Subsection of their right to participate and offer evidence in support of objections to the proposed determination of irrigation water requirements in the Canjilon Subsection. The approved Notice shall be published once a week for four consecutive weeks in the *Rio Grande Sun*.

C. The State shall coordinate the mailing and publication of the *Notices* regarding the determination of priority dates and irrigation water requirements so that these events and the stated deadlines therein occur in a coordinated manner. The two *Notices* will be combined in a single mailing.

The *Notices* shall be mailed to the last known address of individual subfile defendants as they are listed in the Court's records. The State shall not be required to make a determination of current ownership of any tracts, nor mail to persons that are not a party to these proceedings. A successor-in-interest to an individual subfile defendant may request substitution of parties under Fed. R. Civ. P. 25(c) in order to participate in these proceedings.

D. After the deadline has expired for filing protests to the proposed determination of priority dates and irrigation water requirements, the State shall submit a proposed scheduling and procedural order to address and resolve any objections that are filed with the Court.

IT IS SO ORDERED.



LORENZO F. GARCIA
UNITED STATES MAGISTRATE JUDGE